

**CITY OF SHORELINE
HEARING EXAMINER**

FINDINGS, CONCLUSIONS AND DECISION

CRITICAL AREAS REASONABLE USE PERMIT

Project Information Summary

Project Description:	Construction of one single family residence on a parcel containing steep slope areas averaging 60% slope.
Project File No.	201516
Project Address	915 Richmond Beach Rd. NW, Shoreline, WA 98177
Property Owner:	White Water LLC
Applicant:	White Water LLC
SEPA Threshold	Determination of Non-Significance (DNS)
Staff Recommendation:	Approve, subject to conditions

Introduction

A public hearing on this application was held before the Hearing Examiner for the City of Shoreline on November 29, 2006. Represented at the hearing were: the applicant, White Water LLC by Howard Meeks and Christine Zhang; and the Department of Planning and Development Services (PDS) by Matthew A. Torpey, Planner II.

One person appeared at the public hearing to offer testimony: Ms. Jean Howard, 824 NW Innis Arden, Shoreline, WA 98177.

For purposes of this decision, all section numbers refer to the Shoreline Municipal Code ("SMC" or "Code"), as amended, unless otherwise indicated. After due consideration of the information submitted at the public hearing, the following shall constitute the findings of fact, conclusions and decision of the Hearing Examiner on this application.

Findings of Fact

1. The site is addressed as 915 Richmond Beach Road, NW and is within the Innis Arden neighborhood. The undeveloped site consists of a single parcel (tax parcel 358530-0372), which is approximately 22,600 square feet in size. The site is designated Low Density Residential, and is zoned R4 (four dwelling units per acre).
2. The site drops steeply downhill beginning at approximately 25 feet from the north property line. The slope runs downward in a southerly direction, with the average grade

about 68 percent over the northern one-third of the site, decreasing to about 20 to 48 percent grade further south, down to a stream that runs through a pipe as it crosses the southern portion of the site.

3. The steep slopes on the site are classified as geologic hazard areas under Chapter 20.80 SMC. The stream is considered by PDS to be a potential Class III stream, also a critical area. The City is currently investigating whether the stream was illegally piped in the past.

4. The area is developed with other single family residences. The site is subject to the Innis Arden Homeowners' Association rules.

Proposal

5. The applicant proposes to construct a two-story single family residence with a daylight basement, as described in Exhibit 2, within the steep slope critical area. The building footprint would be approximately 1800-2000 square feet. The applicant proposes a 65-foot setback from the stream, which would comply with the stream buffer requirements for a Class III stream. The applicant also proposes to reduce the front yard setback from 20 feet to 10 feet, pursuant to SMC 20.30.336(C).

6. The applicant submitted a geotechnical engineering study (Attachment F to the staff report) that was prepared by the applicant's consultant, Liu and Associates, Inc. The study is based on an earlier study that was performed of the site and its adjoining property to the east (which has since been developed with a house). The Liu study reviews the soil conditions and provides recommendations for site preparation and foundation design and construction.

7. Meetings on the proposal, notice of the application and the public comment period were provided, as described in the Director's hearing memorandum.

8. The Department issued a Determination of Nonsignificance (DNS) and notice of public hearing on the proposal on September 7, 2006. The DNS was not appealed.

9. No written comments were submitted to the Department or the Hearing Examiner on the proposal. At hearing, Ms. Jean Howard offered comments on the proposal, primarily concerning the height and bulk of the future residence, and noted that the Innis Arden Homeowners Association will be reviewing the proposed residence. She also commented that the stream on the site is not really a stream, but run-off.

10. The City's Structural Engineer has reviewed the proposal and the geotechnical report and has no concerns with the proposal and construction methods to be used.

11. The Department recommended approval of the CARUP application, with certain conditions.

Conclusions

1. Under SMC 20.30.336, a CARUP is a Type C action, which is decided by the Hearing Examiner under SMC 20.30.060. The purpose of a CARUP is to allow development and use of private property when strict application of the critical areas standards would otherwise deny all reasonable use of a property.
2. The notice and meeting requirements set out in SMC 20.30 for a Type C permit have been met in this case.
3. The decision criteria for granting a CARUP are set out in SMC 20.30.336.B. The first criterion is whether the application of the development standards would deny all reasonable use of the property. The areas of the site that are not steep slope critical areas are located on the southern portion of the site, to which there is no legal access. Three non-critical areas are also potentially within the 65-foot stream buffer for a Class III stream. This criterion has been met, as application of the standards would deny all reasonable use of the property.
4. The second criterion is whether there is no other reasonable use of the property with less impact on the critical area. The site is zoned R4, under which a detached single family home is a permitted use that would likely have less impact on the critical area than any other use permitted outright in the zone. Also, only single family construction is allowed under the private Innis Arden Homeowners Association rules which apply to the property, so no other use would be feasible. This criterion is therefore met.
5. The next criterion is whether the alterations to the critical area would be the minimum necessary to allow for reasonable use of the property. The footprint of the home is comparable or smaller than existing homes in the vicinity, including other homes located nearby along Richmond Beach Drive. Aside from the alterations necessary for the building footprint, the other alterations are required for stabilization measures. A 65-foot setback is proposed for the potential Class III stream, so no alterations would be made to that critical area. This criterion is met.
6. The next criterion is that the proposed development will not create a health or safety hazard on or off the development site or be materially detrimental to the property or improvements in the vicinity; that it be consistent with the general purposes of this title and the public interest; and that all reasonable mitigation measures be implemented or assured.
7. The record does not show that this proposal, as conditioned, would pose a health or safety hazard on or off the site, or that it would be materially detrimental to the property or improvements in the vicinity. Slope stabilization measures and other erosion and drainage control measures will be required to be implemented in conformity with the

recommendations of the geotechnical engineering study on file, and with the City's engineering standards.

8. The application would be consistent with the general purpose of Title 20, the Development Code and the public interest. The purposes of Title 20 include the protection of the functions and values of ecological systems and natural resources important to the public, while guiding development of the City consistent with the Comprehensive Plan. In this case, the proposal would allow for the creation of a single family home on an R4-zoned lot, within an established neighborhood. The public interest will be protected through the application of the proposed conditions and applicable Code requirements for construction on steep slopes and stream buffers.

9. All reasonable mitigation measures have been implemented or assured. As noted above, measures recommended in the geotechnical report and other erosion and drainage control measures required by the Code will be implemented. The applicant also proposes to observe the 65-foot setback for the stream, should it be confirmed as a Class III stream.

10. The inability to derive reasonable economic use is not the result of the applicant's action. The steep slopes were on the site prior to incorporation of the City and the regulations that subsequently took effect. The applicant did not create the parcels or lot lines that created the need for relief in order to derive reasonable economic use of the property.

Decision

The Critical Areas Reasonable Use permit is approved, subject to the following conditions:

1. The applicant shall follow all recommendations and methods of construction contained in the Liu and Associates Geotechnical Engineering report (Attachment F).
2. A notice to title shall be recorded against the properties in accordance with SMC 20.80.050.
3. Work shall be restricted to the dry construction season of April 15 through October 15 of any given year.
4. In the event that the construction of the site encroaches or interferes with the 65-foot stream buffer, the applicant shall provide the City of Shoreline an acceptable stream enhancement plan per SMC 20.80.480.C
5. The proposed building footprints and areas of impact shown on the proposed site plan (Attachment G) shall not be altered during building permit review.

6. Drainage requirements shall be per the adopted 1998 King County Storm Water Manual in effect at the time of complete application. Drainage review shall be conducted during the building and right-of-way permit review.
7. Full erosion control plans and drainage plans per the Shoreline Engineering Standards as well as recommendations from the geotechnical report shall be utilized during any and all construction.

Entered this 12th day of December, 2006.



Anne Watanabe
Hearing Examiner

Concerning Further Review

NOTE: It is the responsibility of the person seeking to appeal a Hearing Examiner decision to consult Code sections and other appropriate sources, to determine applicable rights and responsibilities.

SMC 20.30.350 provides that "Any judicial appeal shall be filed in accordance with State law. If there is not a statutory time limit for filing a judicial appeal, the appeal shall be filed within 21 calendar days after a final decision is issued by the City."

EXHIBITS

- Exhibit 1: City's Hearing Memorandum
Attachment A Application Documents
Attachment B Notice of Application
Attachment C Determination of Nonsignificance
Attachment D Notice of Public Hearing
Attachment E SEPA checklist
Attachment F Geotechnical Report
Attachment G Proposed Site Plan Documents
- Exhibit 2: Power point presentation
- Exhibit 3: Resumes of Howard Meeks and Christine Zhang